



Reprinted  
February 27, 2008

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## ENGROSSED HOUSE BILL No. 1219

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DIGEST OF HB 1219 (Updated February 26, 2008 6:01 pm - DI 110)

**Citations Affected:** IC 5-2; IC 6-8.1; IC 10-11; IC 22-4; IC 22-5; IC 31-25; IC 34-30; IC 35-44; noncode.

**Synopsis:** Labor and safety. Authorizes payment to certain state educational institutions for specific training programs from the special employment and training services fund. Requires the department of workforce development to operate a data match system with financial institutions doing business in Indiana for use only in the collection of unpaid final assessments of employer contributions for the state's unemployment insurance system. Makes conforming amendments. Assigns to the pension management oversight commission the study of certain age discrimination issues. Requires the superintendent of the state police department to: (1) negotiate terms of a memorandum of understanding (memorandum) concerning a pilot project for the enforcement of federal immigration and customs laws; and (2) designate appropriate law enforcement officers to be trained under the  
(Continued next page)

**Effective:** Upon passage; July 1, 2008; October 1, 2009.

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**Tyler, Stilwell, Koch, Austin**

(SENATE SPONSORS — KRUSE, MISHLER, TALLIAN, ARNOLD)

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January 14, 2008, read first time and referred to Committee on Labor and Employment.  
January 24, 2008, amended, reported — Do Pass.  
January 28, 2008, read second time, ordered engrossed. Engrossed.  
January 29, 2008, read third time, passed. Yeas 56, nays 41.

SENATE ACTION

February 4, 2008, read first time and referred to Committee on Pensions and Labor.  
February 14, 2008, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.  
February 21, 2008, amended, reported favorably — Do Pass.  
February 26, 2008, read second time, amended, ordered engrossed.

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EH 1219—LS 6691/DI 102+



memorandum. Prohibits an employer from knowingly hiring, after September 30, 2009, an unauthorized alien. Exempts certain entities from this provision. Subject to availability of funds, authorizes the attorney general to: (1) investigate a complaint that an employer knowingly employed an unauthorized alien; (2) verify the work authorization of the alleged unauthorized alien with the federal government; (3) notify United States Immigration and Customs Enforcement, local law enforcement agencies, and the appropriate prosecuting attorney under certain conditions; and (4) maintain certain records of violation orders. Authorizes a prosecuting attorney to file a civil action against an employer for knowingly hiring an unauthorized alien in the county where the alien is employed. Allows a court to order certain remedies if the trier of fact determines an employer knowingly employed an unauthorized alien. Prohibits a prosecuting attorney from filing an action against an employer that verifies the employment authorization of an employed individual through the federal verification pilot program. Establishes an affirmative defense if the employer complied in good faith with the federal employment verification requirements. Makes it a Class B misdemeanor to file complaint, knowing the complaint is false or frivolous, with the attorney general or a prosecuting attorney. Prohibits a governmental body from enacting an ordinance, resolution, rule, or policy that prohibits or limits another governmental body from sending, receiving, maintaining, or exchanging information on the citizenship or immigration status of an individual. Allows a person to bring an action to compel a governmental body to comply with the prohibition. Prohibits a state agency or political subdivision from entering into or renewing a public contract for services with a contractor if the state agency or political subdivision knows that the contractor employs or contracts with unauthorized aliens. Provides that: (1) a state agency or political subdivision may terminate a public contract for services if the contractor providing the services employs or contracts with unauthorized aliens unless the state or political subdivision determines that terminating the contract would be detrimental to the public interest or public property; and (2) if a public contract for services is terminated, a contractor is liable for actual damages. Allows a contractor of a public contract for services to terminate a contract with a subcontractor if the subcontractor employs or contracts with unauthorized aliens. Makes it a: (1) Class A misdemeanor to transport or move; and (2) Class A misdemeanor to conceal, harbor, or shield from detection; an alien, for purposes of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law. Exempts certain persons from the criminal provisions. Makes these offenses a Class D felony (Class C felony for subsequent offenses): (1) for a subsequent offense; or (2) if the offense involves more than five aliens. Requires the department of workforce development to verify the lawful presence of certain individuals to determine the individual's eligibility for unemployment benefits through the SAVE program.

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Reprinted  
February 27, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1219

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A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-2-18 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2008]:

4 **Chapter 18. Citizenship and Immigration Status Information**

5 **Sec. 1. As used in this chapter, "governmental body" has the**  
6 **meaning set forth in IC 5-22-2-13.**

7 **Sec. 2. A governmental body may not enact an ordinance, a**  
8 **resolution, a rule, or a policy that prohibits or in any way restricts**  
9 **another governmental body, including a law enforcement officer**  
10 **(as defined in IC 5-2-1-2), a state or local official, or a state or local**  
11 **government employee, from taking the following actions with**  
12 **regard to information concerning the citizenship or immigration**  
13 **status, lawful or unlawful, of an individual:**

14 (1) **Communicating or cooperating with federal officials.**

15 (2) **Sending to or receiving information from the United States**  
16 **Department of Homeland Security.**

17 (3) **Maintaining information.**

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(4) Exchanging information with another federal, state, or local government entity.

**Sec. 3. If a governmental body violates this chapter, a person lawfully domiciled in Indiana may bring an action to compel the governmental body to comply with this chapter.**

SECTION 2. IC 6-8.1-8-8.7, AS ADDED BY P.L.226-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.7. (a) The department shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the department on all individuals:

(1) who hold one (1) or more accounts with the financial institution; and

(2) upon whom a levy may be issued by the department or a county treasurer.

(c) To provide the information required under subsection (b), a financial institution shall do one (1) of the following:

(1) Identify individuals by comparing records maintained by the financial institution with records provided by the department by:

(A) name; and

(B) either:

(i) Social Security number; or

(ii) tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) ~~available~~ **accessible** to the department or its agents for use only in tax judgment and levy administration.

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either:

(i) the Social Security number; or

(ii) tax identification number;

of individuals identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual against whom a levy may be issued by the department or a county treasurer, the department or its agents shall provide a notice of the match, in

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1 compliance with section 4 of this chapter, if action is to be initiated to  
2 levy or encumber the account.

3 (f) This section does not preclude a financial institution from  
4 exercising its right to:

5 (1) charge back or recoup a deposit to an account; or

6 (2) set off from an account held by the financial institution in  
7 which the individual has an interest in any debts owed to the  
8 financial institution that existed before:

9 (A) the state's levy; and

10 (B) notification to the financial institution of the levy.

11 (g) A financial institution ordered to block or encumber an account  
12 under this section is entitled to collect its normally scheduled account  
13 activity fees to maintain the account during the period the account is  
14 blocked or encumbered.

15 (h) All information provided by a financial institution under this  
16 section is confidential and is available only to the department or its  
17 agents for use only in levy collection activities.

18 (i) A financial institution providing information required under this  
19 section is not liable for:

20 (1) disclosing the required information to the department or the  
21 child support bureau established by IC 31-25-3-1;

22 (2) blocking or surrendering an individual's assets in response to  
23 a levy imposed under this section by:

24 (A) the department; or

25 (B) a person or an entity acting on behalf of the department; or

26 (3) any other action taken in good faith to comply with this  
27 section.

28 **(j) A person or an entity that is acting on behalf of the**  
29 **department is not liable for any action taken in good faith to collect**  
30 **the state's levy under this section unless:**

31 **(1) the action is contrary to the department's direction to the**  
32 **person or entity; or**

33 **(2) for information provided under this section, the person or**  
34 **entity acts with:**

35 **(A) deliberate ignorance of the truth or falsity of the**  
36 **information; or**

37 **(B) reckless disregard for the truth or falsity of the**  
38 **information.**

39 **(k)** The department or its agents shall pay a financial institution  
40 performing the data match required by this section a reasonable fee, as  
41 determined by the department, of at least five dollars (\$5) for each levy  
42 issued to the financial institution.

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1        ~~(k)~~ (l) This section does not prevent the department or its agents  
 2        from encumbering an obligor's account with a financial institution by  
 3        any other remedy available under the law.

4        SECTION 3. IC 10-11-2-21.5 IS ADDED TO THE INDIANA  
 5        CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6        [EFFECTIVE JULY 1, 2008]: **Sec. 21.5. (a) As used in this section,**  
 7        **"law enforcement officer" means a:**

- 8            (1) police employee;
- 9            (2) county sheriff;
- 10          (3) county police officer;
- 11          (4) county police reserve officer;
- 12          (5) city police officer;
- 13          (6) city police reserve officer;
- 14          (7) town marshal;
- 15          (8) deputy town marshal; or
- 16          (9) member of a consolidated law enforcement department  
 17          established under IC 36-3-1-5.1.

18        (b) The superintendent shall negotiate the terms of a  
 19        memorandum of understanding between the state and the United  
 20        States Department of Justice or the United States Department of  
 21        Homeland Security concerning a pilot project for the enforcement  
 22        of federal immigration and customs laws in Indiana.

23        (c) The memorandum of understanding described in subsection  
 24        (b) must be signed on behalf of the state by the superintendent and  
 25        governor, unless otherwise required by the United States  
 26        Department of Justice or the United States Department of  
 27        Homeland Security.

28        (d) The superintendent shall designate appropriate law  
 29        enforcement officers to be trained under the memorandum of  
 30        understanding described in subsection (b).

31        (e) The department shall apply for federal funding, as available,  
 32        for the costs associated with training law enforcement officers  
 33        under the memorandum of understanding described in subsection  
 34        (b).

35        (f) A law enforcement officer certified as trained in accordance  
 36        with the memorandum of understanding described in subsection  
 37        (b) may enforce federal immigration and customs laws while  
 38        performing within the scope of the law enforcement officer's  
 39        duties.

40        (g) The superintendent shall coordinate efforts, as needed, with  
 41        the executive director of the department of homeland security to  
 42        address issues of national security in implementing this section.

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SECTION 4. IC 22-4-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. **(a) As used in this section, "SAVE program" means the Systematic Alien Verification of Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.**

**(b)** For weeks of unemployment occurring subsequent to December 31, 1977, benefits may not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for permanent residence at the time the services are performed, is lawfully present for purposes of performing the services, or otherwise is permanently residing in the United States under color of law at the time the services are performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 207, Section 208, or Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1157 through 1158).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of ~~his~~ **the individual's** alien status may be made except upon a preponderance of the evidence.

(3) Any modifications to the provisions of Section 3304(a)(14) of the Federal Unemployment Tax Act, as provided by P.L.94-566, which specify other conditions or other effective date than stated in this section for the denial of benefits based on services performed by aliens and which are required to be implemented under state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be considered applicable under this section.

**(c) If an individual who applies for benefits is not a citizen or national of the United States, the department shall verify the lawful presence of the individual to determine the individual's eligibility for benefits through the SAVE program. The department shall implement this subsection in accordance with federal law.**

SECTION 5. IC 22-4-25-1, AS AMENDED BY P.L.2-2007, SECTION 293, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and

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1 training services fund. All interest on delinquent contributions and  
 2 penalties collected under this article, together with any voluntary  
 3 contributions tendered as a contribution to this fund, shall be paid into  
 4 this fund. The money shall not be expended or available for  
 5 expenditure in any manner which would permit their substitution for  
 6 (or a corresponding reduction in) federal funds which would in the  
 7 absence of said money be available to finance expenditures for the  
 8 administration of this article, but nothing in this section shall prevent  
 9 said money from being used as a revolving fund to cover expenditures  
 10 necessary and proper under the law for which federal funds have been  
 11 duly requested but not yet received, subject to the charging of such  
 12 expenditures against such funds when received. The money in this fund  
 13 shall be used by the board for the payment of refunds of interest on  
 14 delinquent contributions and penalties so collected, for the payment of  
 15 costs of administration which are found not to have been properly and  
 16 validly chargeable against federal grants or other funds received for or  
 17 in the employment and training services administration fund, on and  
 18 after July 1, 1945. Such money shall be available either to satisfy the  
 19 obligations incurred by the board directly, or by transfer by the board  
 20 of the required amount from the special employment and training  
 21 services fund to the employment and training services administration  
 22 fund. ~~No expenditure of this fund shall be made unless and until the~~  
 23 ~~board finds that no other funds are available or can properly be used to~~  
 24 ~~finance such expenditures, except that expenditures from said fund may~~  
 25 ~~be made for the purpose of acquiring lands and buildings or for the~~  
 26 ~~erection of buildings on lands so acquired which are deemed necessary~~  
 27 ~~by the board for the proper administration of this article.~~ The board  
 28 shall order the transfer of such funds or the payment of any such  
 29 obligation or expenditure and such funds shall be paid by the treasurer  
 30 of state on requisition drawn by the board directing the auditor of state  
 31 to issue the auditor's warrant therefor. Any such warrant shall be drawn  
 32 by the state auditor based upon vouchers certified by the board or the  
 33 commissioner. The money in this fund is hereby specifically made  
 34 available to replace within a reasonable time any money received by  
 35 this state pursuant to 42 U.S.C. 502, as amended, which, because of  
 36 any action or contingency, has been lost or has been expended for  
 37 purposes other than or in amounts in excess of those approved by the  
 38 bureau of employment security. The money in this fund shall be  
 39 continuously available to the board for expenditures in accordance with  
 40 the provisions of this section and shall not lapse at any time or be  
 41 transferred to any other fund, except as provided in this article. Nothing  
 42 in this section shall be construed to limit, alter, or amend the liability

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of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) (b) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) (c) Subject to the approval of the board **and the availability of funds on July 1, 2008**, the commissioner may use not more than: **five**

**(1) million dollars (\$5,000,000) during a program year for two hundred fifty thousand dollars (\$250,000) for the training**

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provided by Ivy Tech Community College the state educational institution established under IC 21-25-2-1 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Labor, Bureau of Apprenticeship and Training; Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs; and

(2) one million dollars (\$1,000,000) to the state educational institution established under IC 21-22-2-1 for participants in the joint labor and management apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

Each state educational institution described in this subsection is entitled to keep two percent (2%) of the funds released under subdivisions (1) through (3) for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds under subdivisions (1) through (3) not used by the state educational institutions under this subsection shall be returned to the special employment and training services fund.

SECTION 6. IC 22-4-29-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The department shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the department on all employers:

(1) that hold one (1) or more accounts with the financial institution; and

(2) that are subject to a warrant issued by the commissioner for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs.

(c) To provide the information required under subsection (b), a financial institution shall do one (1) of the following:

(1) Identify employers by comparing records maintained by the financial institution with records provided by the department by:

(A) name; and

(B) either:

(i) Social Security number; or

(ii) federal tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support

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bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) accessible to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include:

(A) the name;

(B) the address of record; and

(C) either:

(i) the Social Security number; or

(ii) the federal tax identification number;

of the employers identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an employer that holds an account with a financial institution and an employer that is subject to a warrant issued by the commissioner for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs, the department or its agents shall provide a notice of the match to the financial institution if action is to be initiated to issue a warrant to levy upon or encumber the account.

(f) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the employer has an interest in any debts owed to the financial institution that existed before:

(A) the department's warrant; and

(B) notification to the financial institution of the department's warrant.

(g) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(h) All information provided by a financial institution under this section is confidential and is available only to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

(i) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the department or

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the child support bureau established by IC 31-25-3-1;  
 (2) blocking or surrendering an individual's assets in response  
 to a levy imposed under this section by:

(A) the department; or

(B) a person or an entity acting on behalf of the  
 department; or

(3) any other action taken in good faith to comply with this  
 section.

(j) A person or an entity that is acting on behalf of the  
 department is not liable for any action taken under this section in  
 good faith to collect unpaid final assessments described in  
 subsection (b)(2) unless:

(1) the action is contrary to the department's direction to the  
 person or entity; or

(2) for information provided under this section, the person or  
 entity acts with:

(A) deliberate ignorance of the truth or falsity of the  
 information; or

(B) reckless disregard for the truth or falsity of the  
 information.

(k) The department or its agents shall pay a financial institution  
 performing the data match required by this section a reasonable  
 fee, as determined by the department, of at least five dollars (\$5)  
 for each warrant issued to the financial institution.

(l) This section does not prevent the department or its agents  
 from encumbering an employer's account with a financial  
 institution by any other remedy available under the law.

SECTION 7. IC 22-4-31-6, AS AMENDED BY P.L.108-2006,  
 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 UPON PASSAGE]: Sec. 6. (a) If, after due notice, any employing unit  
 defaults in the payment of any contributions or other money payments  
 required by this article, the amount due may be collected by civil action  
 in the name of the state of Indiana on the relation of the department.  
 Such civil action is not to be considered as the exclusive method for  
 collection of the contributions or money payments but is in addition to  
 the method provided in IC 22-4-29-2 through ~~IC 22-4-29-12~~  
**IC 22-4-29-14** and is to be brought only in such cases as the  
 department may deem advisable in the interest of necessity and  
 convenience.

(b) Unless the employing unit prevails in a civil action brought  
 under this chapter, the court may award costs, including reasonable  
 attorney's fees, incurred by the state in bringing the action.

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SECTION 8. IC 22-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE OCTOBER 1, 2009]:

**Chapter 1.5. Employment of Unauthorized Aliens**

**Sec. 1. (a)** This chapter applies only to an employee that an employer hires after September 30, 2009.

**(b)** This chapter does not apply to the following:

(1) A public utility (as defined in IC 8-1-2-1(a)) that is subject to regulation by the Indiana utility regulatory commission under IC 8-1-2.

(2) A hospital licensed under IC 16-21.

(3) A county hospital organized under IC 16-22.

(4) A municipal hospital organized under IC 16-23.

(5) A nonprofit corporation.

(6) A person who operates a business of transporting emergency patients by ambulance or using a nontransporting emergency medical services vehicle (as defined in IC 16-31-3-0.5).

(7) A corporation organized under IC 8-1-13.

(8) A corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

**Sec. 2.** As used in this chapter, "agency" means any state or local administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of government created or established by law that issues a license for purposes of operating a business in Indiana.

**Sec. 3.** As used in this chapter, "employee" means an individual who:

(1) works or is hired to work for at least one thousand five hundred (1,500) hours during a twelve (12) month period;

(2) performs services for an employer; and

(3) is an individual from whom the employer is required to withhold wages under IC 6-3-4-8 or is an employee described in IC 6-3-4-8(l).

**Sec. 4. (a)** As used in this chapter, "employer" means a person that:

(1) transacts business in Indiana;

(2) has a license issued by an agency; and

(3) employs one (1) or more individuals who perform employment services in Indiana.

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(b) The term includes the state, a political subdivision (as defined in IC 3-5-2-38) of the state, and a self-employed person.

Sec. 5. As used in this chapter, "knowingly" has the meaning set forth in IC 35-41-2-2.

Sec. 6. (a) As used in this chapter, "license" means any agency permit, certificate, approval, registration, charter, or similar authorization that is:

(1) required by law; and

(2) issued by an agency;

for purposes of operating a business in Indiana.

(b) The term does not include an occupational or professional license.

Sec. 7. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

Sec. 8. As used in this chapter, "pilot program" means the employment verification pilot program administered by the United States Department of Homeland Security and the Social Security Administration, or the successor of that program.

Sec. 9. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).

Sec. 10. An employer shall not knowingly employ an unauthorized alien.

Sec. 11. (a) Subject to the availability of funds, the attorney general may investigate a complaint filed with the attorney general that an employer knowingly employed an unauthorized alien in violation of section 10 of this chapter.

(b) In investigating a complaint under subsection (a), the attorney general shall verify the work authorization of the alleged unauthorized alien with the federal government under 8 U.S.C. 1373(c).

(c) A complaint filed with the attorney general under subsection (a) must be:

(1) in writing; and

(2) signed by the individual filing the complaint.

Sec. 12. A state, county, or local official or employee may not attempt to make independently a final determination as to whether an individual is authorized to work in the United States.

Sec. 13. (a) If, after an investigation, the attorney general determines that an employer has knowingly employed an unauthorized alien, the attorney general shall notify the United States Immigration and Customs Enforcement.

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(b) If the attorney general determines that an employer has knowingly employed an unauthorized alien and that any defenses to knowingly employing an unauthorized alien established under this chapter do not apply, the attorney general may notify:

(1) local law enforcement agencies; and

(2) the prosecuting attorney in the county in which the unauthorized alien is employed.

The attorney general may not notify law enforcement agencies and the prosecuting attorney about the unauthorized alien unless the attorney general determines that the defenses established under this chapter do not apply.

Sec. 14. (a) The prosecuting attorney may bring a civil action for a violation of section 10 of this chapter against an employer in the county where the unauthorized alien employee is employed.

(b) A prosecuting attorney filing an action under subsection (a) may file only one (1) action against the employer relating to the employment of all unauthorized aliens employed by the employer at the time the prosecuting attorney files the action.

(c) A prosecuting attorney may file an additional action against an employer under this section for a second or subsequent violation of section 10 of this chapter only for violations allegedly committed by the employer after the employer receives notice that the prosecuting attorney has filed the initial action against the employer under this section.

Sec. 15. If a prosecuting attorney files an action under section 14 of this chapter, the court in which the action is filed may hold a hearing and make a determination of the action on an expedited basis.

Sec. 16. (a) Except as provided in sections 18 and 19 of this chapter, if a trier of fact determines that an employer knowingly employed an unauthorized alien in violation of section 10 of this chapter, the following apply:

(1) The court may do the following:

(A) Order the employer to terminate the employment of all unauthorized aliens employed by the employer.

(B) Place the employer on probation for a three (3) year period. During the probationary period, the employer shall file a quarterly report with the attorney general concerning each new individual the employer hires at the specific business location where the unauthorized alien worked.

(C) Order the employer to file a sworn affidavit signed by

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the employer with the prosecuting attorney within three (3) business days after the order is issued under clause (A).

The affidavit must include a statement that the employer:

(i) has terminated the employment of all unauthorized aliens; and

(ii) will not knowingly employ an unauthorized alien.

(2) The court, after considering the relevant factors listed in subsection (b), may order an agency to suspend, for not more than ten (10) business days, a license described in section 17(a) of this chapter that is held by the employer.

(b) The court may consider the following factors, if applicable, in deciding whether to order an agency to suspend an employer's license under subsection (a)(2):

(1) The number of unauthorized aliens employed by the employer.

(2) Any prior misconduct by the employer.

(3) The degree of harm resulting from the violation.

(4) The extent to which the employer made good faith efforts to comply with any applicable requirements under this chapter.

(5) The duration of the violation.

(6) The role of the directors, officers, or agents of the employer in the violation.

(7) Any other factors the court considers relevant.

Sec. 17. (a) This section applies to all licenses held by an employer:

(1) that are necessary to operate the employer's business at the employer's business location where an unauthorized alien worked; or

(2) if a license is not necessary at the employer's business location described in subdivision (1), that are held by the employer for the employer's primary place of business.

(b) If an employer fails to file a sworn affidavit required under section 16(a)(1)(C) of this chapter with the prosecuting attorney within three (3) business days after the order requiring the filing of the affidavit is issued, the court may order the appropriate agencies to suspend all licenses that are held by the employer. All licenses suspended under this subsection may remain suspended until the employer files a sworn affidavit described under section 16(a)(1)(C) of this chapter with the prosecuting attorney.

(c) If the employer subject to an order filed under subsection (b) files a sworn affidavit required under section 16(a)(1)(C) of this

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chapter, the court may order the appropriate agencies to reinstate the employer's suspended licenses.

**Sec. 18. If:**

(1) a trier of fact determines that an employer knowingly employed an unauthorized alien in a second violation of section 10 of this chapter; and

(2) the violation referred to in subdivision (1) occurred not later than ten (10) years after the date of the initial violation; the court may order the appropriate agencies to suspend, for not more than ten (10) business days, all licenses described in section 17(a) of this chapter that are held by the employer.

**Sec. 19. If:**

(1) a trier of fact determines that an employer knowingly employed an unauthorized alien in a third violation of section 10 of this chapter; and

(2) the violation referred to in subdivision (1) occurred not later than ten (10) years after the date of the initial violation; the court may order the appropriate agencies to permanently revoke all licenses held by the employer that are described in section 17(a) of this chapter.

**Sec. 20. (a)** If an agency receives an order from a court under section 16(a)(2), 17(b), or 18 of this chapter, the agency shall immediately suspend the license or licenses described in section 17(a) of this chapter that are held by the employer to which the order relates.

**(b)** If an agency receives an order from a court under section 19 of this chapter, the agency shall immediately revoke the license or licenses described in section 17(a) of this chapter that are held by the employer to which the order relates.

**Sec. 21.** A court shall send copies of all orders issued under sections 16, 17, 18, and 19 of this chapter to the attorney general.

**Sec. 22. (a)** In determining whether an individual is an unauthorized alien for purposes of this chapter, a trier of fact may consider only the federal government's verification or status information provided under 8 U.S.C. 1373(c).

**(b)** The federal government's verification or status information provided under 8 U.S.C. 1373(c) creates a rebuttable presumption of an individual's lawful status.

**(c) The court may:**

(1) take judicial notice of the federal government's verification or status information; and

(2) request the federal government to provide automated or

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testimonial verification under 8 U.S.C. 1373(c).

Sec. 23. A prosecuting attorney may not file an action against an employer under section 14 of this chapter for knowingly employing an unauthorized alien if the employer verified the employment authorization of the employed individual through the pilot program.

Sec. 24. An employer may establish as an affirmative defense against an alleged violation under section 10 of this chapter that the employer complied in good faith with the requirements of 8 U.S.C. 1324a(b).

Sec. 25. The attorney general shall:

- (1) maintain copies of court orders received under section 21 of this chapter;
- (2) make the court orders available on the attorney general's Internet web site; and
- (3) establish and maintain a data base of the names and addresses of the employers that have a violation under this chapter.

Sec. 26. This chapter does not require an employer to take any action that the employer believes in good faith would violate federal law.

Sec. 27. After September 30, 2009, an employer shall verify the employment eligibility of each employee of the employer through the pilot program after hiring the employee.

Sec. 28. A person who files a complaint with the attorney general or a prosecuting attorney under this chapter, knowing that the complaint is false or frivolous, commits a Class B misdemeanor.

Sec. 29. The suspension or revocation of a license under this chapter does not relieve an employer from an obligation to withhold, collect, or pay income tax on wages paid by the employer to an employee.

Sec. 30. This chapter shall be enforced without regard to race or national origin.

SECTION 9. IC 22-5-1.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 1.7. Public Contract for Services; Unauthorized Aliens**

Sec. 1. As used in this chapter, "contractor" means a person that has or is attempting to enter into a public contract for services with a state agency or political subdivision.

Sec. 2. As used in this chapter, "person" means an individual, a

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1 corporation, a limited liability company, a partnership, or another  
2 legal entity.

3 Sec. 3. As used in this chapter, "political subdivision" has the  
4 meaning set forth in IC 36-1-2-13.

5 Sec. 4. As used in this chapter, "public contract for services"  
6 means any type of agreement between a state agency or a political  
7 subdivision and a contractor for the procurement of services.

8 Sec. 5. As used in this chapter, "state agency" has the meaning  
9 set forth in IC 4-6-3-1.

10 Sec. 6. As used in this chapter, "subcontractor" means a person  
11 that:

12 (1) is a party to a contract with a contractor; and

13 (2) provides services for work the contractor is performing  
14 under a public contract for services.

15 Sec. 7. As used in this chapter, "unauthorized alien" has the  
16 meaning set forth in 8 U.S.C. 1324a(h)(3).

17 Sec. 8. A state agency or political subdivision may not enter into  
18 or renew a public contract for services with a contractor if the  
19 state agency or political subdivision knows that the contractor or  
20 a subcontractor of the contractor employs or contracts with an  
21 unauthorized alien.

22 Sec. 9. Before a state agency or political subdivision may enter  
23 into a public contract for services with a contractor, the contractor  
24 shall certify in a manner that does not violate federal law that the  
25 contractor, at the time of the certification, does not employ or  
26 contract with an unauthorized alien.

27 Sec. 10. (a) A contractor or a subcontractor may not employ or  
28 contract with an unauthorized alien.

29 (b) If a contractor violates this section, the state agency or  
30 political subdivision shall require the contractor to remedy the  
31 violation not later than thirty (30) days after the date the state  
32 agency or political subdivision notifies the contractor of the  
33 violation.

34 Sec. 11. (a) Except as provided in subsection (b), if a contractor  
35 fails to remedy a violation within the thirty (30) day period  
36 provided under section 10(b) of this chapter, the state agency or  
37 political subdivision shall terminate the public contract for services  
38 with the contractor for breach of the public contract for services.

39 (b) If a contractor employs or contracts with an unauthorized  
40 alien but the state agency or political subdivision (whichever the  
41 contractor has a public contract for services with) determines that  
42 terminating the public contract for services under subsection (a)

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would be detrimental to the public interest or public property, the state agency or political subdivision may allow the public contract for services to remain in effect until the state agency or political subdivision procures a new contractor.

(c) If a state agency or political subdivision terminates a public contract for services under subsection (a), the contractor shall be liable to the state agency or political subdivision for actual damages.

**Sec. 12.** A contractor may file an action with a circuit or superior court having jurisdiction in the county to challenge:

(1) a notice of a violation to the contractor under section 10(b) of this chapter not later than twenty (20) days after the contractor receives the notice; or

(2) a termination of a public contract for services under section 11(a) of this chapter not later than twenty (20) days after the state agency or political subdivision terminates the public contract for services with the contractor.

**Sec. 13.** If a contractor uses a subcontractor, the subcontractor shall certify to the contractor in a manner that does not violate federal law that the subcontractor, at the time of certification, does not employ or contract with an unauthorized alien.

**Sec. 14.** A contractor shall maintain on file a certification of a subcontractor under section 13 of this chapter throughout the duration of the term of a contract with the subcontractor.

**Sec. 15. (a)** If a contractor determines that a subcontractor is in violation of this chapter, the contractor may terminate a contract with the subcontractor for the violation.

(b) A contract terminated under subsection (a) for a violation of this chapter by a subcontractor may not be considered a breach of contract by the contractor or the subcontractor.

(c) A subcontractor may file an action with a circuit or superior court having jurisdiction in the county to challenge a termination of a contract under subsection (a) not later than twenty (20) days after the contractor terminates the contract with the subcontractor.

SECTION 10. IC 31-25-4-31, AS AMENDED BY P.L.103-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) The bureau shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the bureau on all noncustodial parents who:

(1) hold one (1) or more accounts with the financial institution;

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and

(2) are delinquent.

(c) In order to provide the information required under subsection (b), a financial institution shall either:

(1) identify noncustodial parents by comparing records maintained by the financial institution with records provided by the bureau by:

(A) name; and

(B) either Social Security number or tax identification number; or

(2) submit to the bureau a report, in a form satisfactory to the bureau, that includes the Social Security number or tax identification number of each individual maintaining an account at the financial institution. **The reports submitted under this subdivision must be accessible to:**

(A) the department of state revenue established by IC 6-8.1-2-1 or its agents for use only in tax judgment and levy administration described in IC 6-8.1-8-8.7(b)(2); or

(B) the department of workforce development established by IC 22-4.1-2-1 or its agents for use only in the collection of unpaid final assessments described in IC 22-4-29-14(b)(2).

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either the Social Security number or tax identification number;

of an individual identified under subsection (b).

(e) When the bureau has determined that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual whose name appears on the quarterly list prepared by the bureau under section 30 of this chapter, the bureau shall provide a notice of the match if action is to be initiated to block or encumber the account by establishing a lien for child support payment to the:

(1) individual; and

(2) financial institution holding the account.

(f) The notice under section (e) must inform the individual that:

(1) the individual's account in a financial institution is subject to a child support lien; and

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- 1 (2) the individual may file an appeal with the bureau within  
 2 twenty (20) days after the date the notice was issued.
- 3 (g) The bureau shall hold a hearing under 470 IAC 1-4. The  
 4 department's final action following a hearing held under this subsection  
 5 is subject to judicial review as provided in 470 IAC 1-4.
- 6 (h) The state's lien on assets under this section is subordinate to any  
 7 prior lien perfected by:  
 8 (1) a financial institution; or  
 9 (2) another legitimate lien holder.
- 10 (i) A lien issued under this section remains in effect until the earliest  
 11 of:  
 12 (1) one hundred twenty (120) days after issuance;  
 13 (2) the date the asset on which the lien is issued is surrendered; or  
 14 (3) the date the lien is released by an action of the bureau.
- 15 (j) This section does not preclude a financial institution from  
 16 exercising its right to:  
 17 (1) charge back or recoup a deposit to an account; or  
 18 (2) set off from an account held by the financial institution in  
 19 which the noncustodial parent has an interest in any debts owed  
 20 to the financial institution that existed before:  
 21 (A) the state's lien; and  
 22 (B) notification to the financial institution of the child support  
 23 delinquency.
- 24 (k) A financial institution ordered to block or encumber an account  
 25 under this section is entitled to collect its normally scheduled account  
 26 activity fees to maintain the account during the period the account is  
 27 blocked or encumbered.
- 28 (l) All information provided by a financial institution under this  
 29 section is confidential and is available only to the bureau or its agents  
 30 for use only in child support enforcement activities.
- 31 (m) A financial institution providing information required under this  
 32 section is not liable for:  
 33 (1) disclosing the required information to the bureau, **the**  
 34 **department of state revenue established by IC 6-8.1-2-1, or**  
 35 **the department of workforce development established by**  
 36 **IC 22-4.1-2-1;**  
 37 (2) blocking or surrendering any of an individual's assets in  
 38 response to a lien imposed by:  
 39 (A) the bureau under this section; or  
 40 (B) a person or entity acting on behalf of the bureau; or  
 41 (3) any other action taken in good faith to comply with this  
 42 section.

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(n) The department shall pay a financial institution performing the data match required by this section a reasonable fee for providing the service that does not exceed the actual cost incurred by the financial institution.

(o) This section does not prevent the bureau or its agents from encumbering an obligor's account with a financial institution by any other remedy available for the enforcement of a child support order.

SECTION 11. IC 34-30-2-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.8. IC 6-8.1-8-8.7 (Concerning actions taken to collect tax judgments and levies).**

SECTION 12. IC 34-30-2-86.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 86.7. IC 22-4-29-14 (Concerning actions taken to collect unemployment insurance assessments).**

SECTION 13. IC 34-30-2-87.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE OCTOBER 1, 2009]: **Sec. 87.3. IC 22-5-1.5-23 (Concerning certain employers that employ unauthorized aliens).**

SECTION 14. IC 35-44-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 5. Offenses Relating to Illegal Aliens**

**Sec. 1. This chapter does not apply to the following:**

- (1) A church or religious organization.
- (2) The provision of assistance for health care items and services that are necessary for the treatment of an emergency medical condition of an individual.
- (3) A health care provider (as defined in IC 16-18-2-163(a)) that is providing health care services.
- (4) An attorney or other person that is providing legal services.
- (5) A person who:
  - (A) is a spouse of an alien or who stands in relation of parent or child to an alien; and
  - (B) would otherwise commit an offense under this chapter with respect to the alien.

**Sec. 2. As used in this chapter, "alien" has the meaning set forth in 8 U.S.C. 1101(a).**

**Sec. 3. As used in this chapter, "federal immigration agency" means an agency of the federal government responsible for the**

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determination of the immigration status of aliens present in the United States.

**Sec. 4.** Except as provided in section 6 of this chapter, a person who:

(1) transports; or

(2) moves;

an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law commits transporting an illegal alien, a Class A misdemeanor.

**Sec. 5.** Except as provided in section 6 of this chapter, a person who:

(1) conceals;

(2) harbors; or

(3) shields from detection;

an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law commits harboring an illegal alien, a Class A misdemeanor.

**Sec. 6.** (a) Except as provided under subsection (b), an offense under section 4 or 5 of this chapter is a Class D felony if the:

(1) person has a prior unrelated conviction under section 4 or 5 of this chapter; or

(2) offense involved more than five (5) aliens.

(b) The offense is a Class C felony if the person has a prior unrelated conviction under this section.

**Sec. 7.** A determination by a federal immigration agency that an alien has come to, entered, or remained in the United States in violation of law creates a rebuttable presumption that the alien is in the United States in violation of law.

**SECTION 15.** [EFFECTIVE OCTOBER 1, 2009] A prosecuting attorney may file an action against an employer under IC 22-5-1.5-14, as added by this act, only for a violation of IC 22-5-1.5-10, as added by this act, that occurs after September 30, 2009.

**SECTION 16.** [EFFECTIVE JULY 1, 2008] IC 35-44-5-4 and IC 35-44-5-5, both as added by this act, apply only to crimes committed after June 30, 2008.

**SECTION 17.** [EFFECTIVE JULY 1, 2008] (a) The attorney

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1 general may request funding to implement IC 22-5-1.5-11, as added  
 2 by this act, in the next biennial budget submission.

3 (b) This SECTION expires July 1, 2012.

4 SECTION 18. [EFFECTIVE JULY 1, 2008] (a) As used in this  
 5 SECTION, "commission" means the pension management  
 6 oversight commission established by IC 2-5-12-1.

7 (b) The commission shall study:

8 (1) discrimination by employers, employment agencies, and  
 9 labor organizations against persons who are at least forty (40)  
 10 years of age; and

11 (2) which state agency should have jurisdiction over age  
 12 discrimination proceedings.

13 (c) The commission shall make recommendations to the general  
 14 assembly regarding the need for legislation concerning age  
 15 discrimination and the appropriate state agency to have  
 16 jurisdiction over age discrimination proceedings.

17 (d) The commission shall report the results of its study required  
 18 under this section to the legislative council before November 1,  
 19 2008. The report must be in electronic format under IC 5-14-6.

20 (e) This SECTION expires November 1, 2008.

21 SECTION 19. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1219, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 17, delete "by" and insert "**pursuant to**".

Page 3, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 3. IC 22-4-25-1, AS AMENDED BY P.L.2-2007, SECTION 293, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. ~~No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures; except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article.~~ The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn

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EH 1219—LS 6691/DI 102+



by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and

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maintenance thereof as was expended from the special employment and training services fund has been returned to such fund:

~~(d)~~ **(b)** Whenever the balance in the special employment and training services fund is deemed excessive by ~~the sixty-six and two-thirds percent (66 2/3%) of the entire~~ board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

~~(e)~~ **(c)** Subject to the approval of the board **and the availability of funds, on July 1, 2008, and each subsequent July 1,** the commissioner may ~~use not more than five~~ **shall release:**

**(1) one (1) million dollars (\$5,000,000) during a program year for (\$1,000,000) to the training provided by Ivy Tech Community College to participants in joint labor and management apprenticeship programs approved providers of apprenticeship training approved by the United States Department of Labor's Labor, Bureau of Apprenticeship and Training Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs; and the remaining fifty (50%) percent is designated for building trade programs that have an educational contract for an apprenticeship technology degree with the state educational institution established under IC 21-22-2-1;**

**(2) four million dollars (\$4,000,000) to the training providers of apprenticeship training approved by the United States Department of Labor, Bureau of Apprenticeship and Training that have an educational contract for an apprenticeship technology degree with the state educational institution instituted and incorporated under IC 21-25-2-1; and**

**(3) two hundred fifty thousand dollars (\$250,000) for journeyman upgrade training to each of the state educational institutions described in subdivisions (1) and (2).**

Each state educational institution described in this subsection is entitled to keep ten percent (10%) of the funds released under subdivisions (1) through (3) for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds under subdivisions (1) through (3) not used by

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**the state educational institutions under this subsection shall be returned to the special employment and training services fund."**

Page 3, line 6, delete "June 30, 2008." and insert "**March 1, 2007.**".

and when so amended that said bill do pass.

(Reference is to HB 1219 as introduced.)

NIEZGODSKI, Chair

Committee Vote: yeas 5, nays 3.

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#### COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1219, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 3.

Page 5, line 19, delete "IC 21-22-2-1;" and insert "**IC 21-25-2-1;**".

Page 5, line 25, delete "IC 21-25-2-1;" and insert "**IC 21-22-2-1;**".

Page 5, delete lines 36 through 38.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1219 as printed January 25, 2008.)

KRUSE, Chairperson

Committee Vote: Yeas 4, Nays 3.

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#### SENATE MOTION

Madam President: I move that Senators Tallian and Arnold be added as cosponsors of Engrossed House Bill 1219.

KRUSE

EH 1219—LS 6691/DI 102+



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## COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill No. 1219, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 22, reset in roman "the".  
 Page 3, line 22, delete "sixty-six and".  
 Page 3, line 23, delete "two-thirds percent (66 2/3%) of the entire".  
 Page 3, line 28, after "funds" delete ",".  
 Page 3, line 28, delete "and each subsequent July 1,".  
 Page 3, line 29, reset in roman "may".  
 Page 3, line 29, delete "shall".  
 Page 3, line 30, delete "one (1)".  
 Page 3, line 30, strike "million dollars".  
 Page 3, line 31, delete "\$1,000,000" and insert **"two hundred fifty thousand dollars (\$250,000)"**.  
 Page 3, line 41, after "IC 21-25-2-1;" insert **"and"**.  
 Page 3, line 42, delete "four" and insert **"one"**.  
 Page 3, line 42, delete "\$4,000,000" and insert **"(\$1,000,000)"**.  
 Page 4, line 5, after "IC 21-22-2-1" delete "; and" and insert ".".  
 Page 4, delete lines 6 through 8.  
 Page 4, line 10, delete "ten" and insert **"two"**.  
 Page 4, line 10, delete "(10%)" and insert **"(2%)"**.

and when so amended that said bill do pass.

(Reference is to EHB 1219 as printed February 15, 2008.)

MEEKS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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 SENATE MOTION

Madam President: I move that Senator Mishler be added as a second sponsor of Engrossed House Bill 1219.

KRUSE

EH 1219—LS 6691/DI 102+



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## SENATE MOTION

Madam President: I move that Engrossed House Bill 1219 be amended to read as follows:

Page 3, line 27, reset in roman "use not more than".

Page 3, line 27, after "than" insert ":".

Page 3, delete line 28.

Page 3, line 30, delete "to" and insert "**for**".

Page 3, line 31, reset in roman "provided by".

Page 3, line 31, after "College" insert "**the state educational institution established under IC 21-25-2-1**".

Page 3, line 31, reset in roman "to participants in joint".

Page 3, reset in roman line 32.

Page 3, line 33, delete "providers of apprenticeship training approved".

Page 3, line 35, after "Training" insert ";".

Page 3, line 38, delete "that have an educational contract for".

Page 3, delete line 39.

Page 3, line 40, delete "educational institution established under IC 21-25-2-1;".

Page 3, run in lines 38 through 40.

Page 3, line 41, delete "training providers".

Page 3, line 42, delete "of apprenticeship training" and insert "**state educational institution established under IC 21-22-2-1 for participants in the joint labor and management apprenticeship programs**".

Page 4, line 1, after "Training" insert ".".

Page 4, delete lines 2 through 4.

(Reference is to EHB 1219 as printed February 22, 2008.)

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 SENATE MOTION

Madam President: I move that Engrossed House Bill 1219 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**EH 1219—LS 6691/DI 102+**



**Chapter 18. Citizenship and Immigration Status Information**

**Sec. 1.** As used in this chapter, "governmental body" has the meaning set forth in IC 5-22-2-13.

**Sec. 2.** A governmental body may not enact an ordinance, a resolution, a rule, or a policy that prohibits or in any way restricts another governmental body, including a law enforcement officer (as defined in IC 5-2-1-2), a state or local official, or a state or local government employee, from taking the following actions with regard to information concerning the citizenship or immigration status, lawful or unlawful, of an individual:

- (1) Communicating or cooperating with federal officials.
- (2) Sending to or receiving information from the United States Department of Homeland Security.
- (3) Maintaining information.
- (4) Exchanging information with another federal, state, or local government entity.

**Sec. 3.** If a governmental body violates this chapter, a person lawfully domiciled in Indiana may bring an action to compel the governmental body to comply with this chapter.

SECTION 2. IC 10-11-2-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 21.5.** (a) As used in this section, "law enforcement officer" means a:

- (1) police employee;
- (2) county sheriff;
- (3) county police officer;
- (4) county police reserve officer;
- (5) city police officer;
- (6) city police reserve officer;
- (7) town marshal;
- (8) deputy town marshal; or
- (9) member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(b) The superintendent shall negotiate the terms of a memorandum of understanding between the state and the United States Department of Justice or the United States Department of Homeland Security concerning a pilot project for the enforcement of federal immigration and customs laws in Indiana.

(c) The memorandum of understanding described in subsection (b) must be signed on behalf of the state by the superintendent and governor, unless otherwise required by the United States Department of Justice or the United States Department of

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**Homeland Security.**

(d) The superintendent shall designate appropriate law enforcement officers to be trained under the memorandum of understanding described in subsection (b).

(e) The department shall apply for federal funding, as available, for the costs associated with training law enforcement officers under the memorandum of understanding described in subsection (b).

(f) A law enforcement officer certified as trained in accordance with the memorandum of understanding described in subsection (b) may enforce federal immigration and customs laws while performing within the scope of the law enforcement officer's duties.

(g) The superintendent shall coordinate efforts, as needed, with the executive director of the department of homeland security to address issues of national security in implementing this section.

SECTION 3. IC 22-4-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) As used in this section, "SAVE program" means the Systematic Alien Verification of Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.

(b) For weeks of unemployment occurring subsequent to December 31, 1977, benefits may not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for permanent residence at the time the services are performed, is lawfully present for purposes of performing the services, or otherwise is permanently residing in the United States under color of law at the time the services are performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 207, Section 208, or Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1157 through 1158).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of ~~his~~ **the individual's** alien status may be made except upon a preponderance of the evidence.

(3) Any modifications to the provisions of Section 3304(a)(14) of

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the Federal Unemployment Tax Act, as provided by P.L.94-566, which specify other conditions or other effective date than stated in this section for the denial of benefits based on services performed by aliens and which are required to be implemented under state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be considered applicable under this section.

**(c) If an individual who applies for benefits is not a citizen or national of the United States, the department shall verify the lawful presence of the individual to determine the individual's eligibility for benefits through the SAVE program. The department shall implement this subsection in accordance with federal law."**

Page 4, after line 11, begin a new paragraph and insert:

"SECTION 5. IC 22-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE OCTOBER 1, 2009]:

**Chapter 1.5. Employment of Unauthorized Aliens**

**Sec. 1. (a) This chapter applies only to an employee that an employer hires after September 30, 2009.**

**(b) This chapter does not apply to the following:**

- (1) A public utility (as defined in IC 8-1-2-1(a)) that is subject to regulation by the Indiana utility regulatory commission under IC 8-1-2.**
- (2) A hospital licensed under IC 16-21.**
- (3) A county hospital organized under IC 16-22.**
- (4) A municipal hospital organized under IC 16-23.**
- (5) A nonprofit corporation.**
- (6) A person who operates a business of transporting emergency patients by ambulance or using a nontransporting emergency medical services vehicle (as defined in IC 16-31-3-0.5).**
- (7) A corporation organized under IC 8-1-13.**
- (8) A corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.**

**Sec. 2. As used in this chapter, "agency" means any state or local administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of government created or established by law that issues a license for purposes of operating a business in Indiana.**

**Sec. 3. As used in this chapter, "employee" means an individual**

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who:

- (1) works or is hired to work for at least one thousand five hundred (1,500) hours during a twelve (12) month period;
- (2) performs services for an employer; and
- (3) is an individual from whom the employer is required to withhold wages under IC 6-3-4-8 or is an employee described in IC 6-3-4-8(l).

**Sec. 4. (a)** As used in this chapter, "employer" means a person that:

- (1) transacts business in Indiana;
- (2) has a license issued by an agency; and
- (3) employs one (1) or more individuals who perform employment services in Indiana.

(b) The term includes the state, a political subdivision (as defined in IC 3-5-2-38) of the state, and a self-employed person.

**Sec. 5.** As used in this chapter, "knowingly" has the meaning set forth in IC 35-41-2-2.

**Sec. 6. (a)** As used in this chapter, "license" means any agency permit, certificate, approval, registration, charter, or similar authorization that is:

- (1) required by law; and
- (2) issued by an agency;

for purposes of operating a business in Indiana.

(b) The term does not include an occupational or professional license.

**Sec. 7.** As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

**Sec. 8.** As used in this chapter, "pilot program" means the employment verification pilot program administered by the United States Department of Homeland Security and the Social Security Administration, or the successor of that program.

**Sec. 9.** As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).

**Sec. 10.** An employer shall not knowingly employ an unauthorized alien.

**Sec. 11. (a)** Subject to the availability of funds, the attorney general may investigate a complaint filed with the attorney general that an employer knowingly employed an unauthorized alien in violation of section 10 of this chapter.

(b) In investigating a complaint under subsection (a), the attorney general shall verify the work authorization of the alleged

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unauthorized alien with the federal government under 8 U.S.C. 1373(c).

(c) A complaint filed with the attorney general under subsection (a) must be:

- (1) in writing; and
- (2) signed by the individual filing the complaint.

Sec. 12. A state, county, or local official or employee may not attempt to make independently a final determination as to whether an individual is authorized to work in the United States.

Sec. 13. (a) If, after an investigation, the attorney general determines that an employer has knowingly employed an unauthorized alien, the attorney general shall notify the United States Immigration and Customs Enforcement.

(b) If the attorney general determines that an employer has knowingly employed an unauthorized alien and that any defenses to knowingly employing an unauthorized alien established under this chapter do not apply, the attorney general may notify:

- (1) local law enforcement agencies; and
- (2) the prosecuting attorney in the county in which the unauthorized alien is employed.

The attorney general may not notify law enforcement agencies and the prosecuting attorney about the unauthorized alien unless the attorney general determines that the defenses established under this chapter do not apply.

Sec. 14. (a) The prosecuting attorney may bring a civil action for a violation of section 10 of this chapter against an employer in the county where the unauthorized alien employee is employed.

(b) A prosecuting attorney filing an action under subsection (a) may file only one (1) action against the employer relating to the employment of all unauthorized aliens employed by the employer at the time the prosecuting attorney files the action.

(c) A prosecuting attorney may file an additional action against an employer under this section for a second or subsequent violation of section 10 of this chapter only for violations allegedly committed by the employer after the employer receives notice that the prosecuting attorney has filed the initial action against the employer under this section.

Sec. 15. If a prosecuting attorney files an action under section 14 of this chapter, the court in which the action is filed may hold a hearing and make a determination of the action on an expedited basis.

Sec. 16. (a) Except as provided in sections 18 and 19 of this

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chapter, if a trier of fact determines that an employer knowingly employed an unauthorized alien in violation of section 10 of this chapter, the following apply:

(1) The court may do the following:

(A) Order the employer to terminate the employment of all unauthorized aliens employed by the employer.

(B) Place the employer on probation for a three (3) year period. During the probationary period, the employer shall file a quarterly report with the attorney general concerning each new individual the employer hires at the specific business location where the unauthorized alien worked.

(C) Order the employer to file a sworn affidavit signed by the employer with the prosecuting attorney within three (3) business days after the order is issued under clause (A).

The affidavit must include a statement that the employer:

(i) has terminated the employment of all unauthorized aliens; and

(ii) will not knowingly employ an unauthorized alien.

(2) The court, after considering the relevant factors listed in subsection (b), may order an agency to suspend, for not more than ten (10) business days, a license described in section 17(a) of this chapter that is held by the employer.

(b) The court may consider the following factors, if applicable, in deciding whether to order an agency to suspend an employer's license under subsection (a)(2):

(1) The number of unauthorized aliens employed by the employer.

(2) Any prior misconduct by the employer.

(3) The degree of harm resulting from the violation.

(4) The extent to which the employer made good faith efforts to comply with any applicable requirements under this chapter.

(5) The duration of the violation.

(6) The role of the directors, officers, or agents of the employer in the violation.

(7) Any other factors the court considers relevant.

Sec. 17. (a) This section applies to all licenses held by an employer:

(1) that are necessary to operate the employer's business at the employer's business location where an unauthorized alien worked; or

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(2) if a license is not necessary at the employer's business location described in subdivision (1), that are held by the employer for the employer's primary place of business.

(b) If an employer fails to file a sworn affidavit required under section 16(a)(1)(C) of this chapter with the prosecuting attorney within three (3) business days after the order requiring the filing of the affidavit is issued, the court may order the appropriate agencies to suspend all licenses that are held by the employer. All licenses suspended under this subsection may remain suspended until the employer files a sworn affidavit described under section 16(a)(1)(C) of this chapter with the prosecuting attorney.

(c) If the employer subject to an order filed under subsection (b) files a sworn affidavit required under section 16(a)(1)(C) of this chapter, the court may order the appropriate agencies to reinstate the employer's suspended licenses.

**Sec. 18. If:**

(1) a trier of fact determines that an employer knowingly employed an unauthorized alien in a second violation of section 10 of this chapter; and

(2) the violation referred to in subdivision (1) occurred not later than ten (10) years after the date of the initial violation; the court may order the appropriate agencies to suspend, for not more than ten (10) business days, all licenses described in section 17(a) of this chapter that are held by the employer.

**Sec. 19. If:**

(1) a trier of fact determines that an employer knowingly employed an unauthorized alien in a third violation of section 10 of this chapter; and

(2) the violation referred to in subdivision (1) occurred not later than ten (10) years after the date of the initial violation; the court may order the appropriate agencies to permanently revoke all licenses held by the employer that are described in section 17(a) of this chapter.

**Sec. 20. (a)** If an agency receives an order from a court under section 16(a)(2), 17(b), or 18 of this chapter, the agency shall immediately suspend the license or licenses described in section 17(a) of this chapter that are held by the employer to which the order relates.

**(b)** If an agency receives an order from a court under section 19 of this chapter, the agency shall immediately revoke the license or licenses described in section 17(a) of this chapter that are held by the employer to which the order relates.

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**Sec. 21.** A court shall send copies of all orders issued under sections 16, 17, 18, and 19 of this chapter to the attorney general.

**Sec. 22. (a)** In determining whether an individual is an unauthorized alien for purposes of this chapter, a trier of fact may consider only the federal government's verification or status information provided under 8 U.S.C. 1373(c).

**(b)** The federal government's verification or status information provided under 8 U.S.C. 1373(c) creates a rebuttable presumption of an individual's lawful status.

**(c)** The court may:

- (1)** take judicial notice of the federal government's verification or status information; and
- (2)** request the federal government to provide automated or testimonial verification under 8 U.S.C. 1373(c).

**Sec. 23.** A prosecuting attorney may not file an action against an employer under section 14 of this chapter for knowingly employing an unauthorized alien if the employer verified the employment authorization of the employed individual through the pilot program.

**Sec. 24.** An employer may establish as an affirmative defense against an alleged violation under section 10 of this chapter that the employer complied in good faith with the requirements of 8 U.S.C. 1324a(b).

**Sec. 25.** The attorney general shall:

- (1)** maintain copies of court orders received under section 21 of this chapter;
- (2)** make the court orders available on the attorney general's Internet web site; and
- (3)** establish and maintain a data base of the names and addresses of the employers that have a violation under this chapter.

**Sec. 26.** This chapter does not require an employer to take any action that the employer believes in good faith would violate federal law.

**Sec. 27.** After September 30, 2009, an employer shall verify the employment eligibility of each employee of the employer through the pilot program after hiring the employee.

**Sec. 28.** A person who files a complaint with the attorney general or a prosecuting attorney under this chapter, knowing that the complaint is false or frivolous, commits a Class B misdemeanor.

**Sec. 29.** The suspension or revocation of a license under this

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chapter does not relieve an employer from an obligation to withhold, collect, or pay income tax on wages paid by the employer to an employee.

**Sec. 30. This chapter shall be enforced without regard to race or national origin.**

SECTION 6. IC 22-5-1.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 1.7. Public Contract for Services; Unauthorized Aliens**

**Sec. 1. As used in this chapter, "contractor" means a person that has or is attempting to enter into a public contract for services with a state agency or political subdivision.**

**Sec. 2. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.**

**Sec. 3. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.**

**Sec. 4. As used in this chapter, "public contract for services" means any type of agreement between a state agency or a political subdivision and a contractor for the procurement of services.**

**Sec. 5. As used in this chapter, "state agency" has the meaning set forth in IC 4-6-3-1.**

**Sec. 6. As used in this chapter, "subcontractor" means a person that:**

- (1) is a party to a contract with a contractor; and**
- (2) provides services for work the contractor is performing under a public contract for services.**

**Sec. 7. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).**

**Sec. 8. A state agency or political subdivision may not enter into or renew a public contract for services with a contractor if the state agency or political subdivision knows that the contractor or a subcontractor of the contractor employs or contracts with an unauthorized alien.**

**Sec. 9. Before a state agency or political subdivision may enter into a public contract for services with a contractor, the contractor shall certify in a manner that does not violate federal law that the contractor, at the time of the certification, does not employ or contract with an unauthorized alien.**

**Sec. 10. (a) A contractor or a subcontractor may not employ or contract with an unauthorized alien.**

**(b) If a contractor violates this section, the state agency or**

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political subdivision shall require the contractor to remedy the violation not later than thirty (30) days after the date the state agency or political subdivision notifies the contractor of the violation.

Sec. 11. (a) Except as provided in subsection (b), if a contractor fails to remedy a violation within the thirty (30) day period provided under section 10(b) of this chapter, the state agency or political subdivision shall terminate the public contract for services with the contractor for breach of the public contract for services.

(b) If a contractor employs or contracts with an unauthorized alien but the state agency or political subdivision (whichever the contractor has a public contract for services with) determines that terminating the public contract for services under subsection (a) would be detrimental to the public interest or public property, the state agency or political subdivision may allow the public contract for services to remain in effect until the state agency or political subdivision procures a new contractor.

(c) If a state agency or political subdivision terminates a public contract for services under subsection (a), the contractor shall be liable to the state agency or political subdivision for actual damages.

Sec. 12. A contractor may file an action with a circuit or superior court having jurisdiction in the county to challenge:

- (1) a notice of a violation to the contractor under section 10(b) of this chapter not later than twenty (20) days after the contractor receives the notice; or
- (2) a termination of a public contract for services under section 11(a) of this chapter not later than twenty (20) days after the state agency or political subdivision terminates the public contract for services with the contractor.

Sec. 13. If a contractor uses a subcontractor, the subcontractor shall certify to the contractor in a manner that does not violate federal law that the subcontractor, at the time of certification, does not employ or contract with an unauthorized alien.

Sec. 14. A contractor shall maintain on file a certification of a subcontractor under section 13 of this chapter throughout the duration of the term of a contract with the subcontractor.

Sec. 15. (a) If a contractor determines that a subcontractor is in violation of this chapter, the contractor may terminate a contract with the subcontractor for the violation.

(b) A contract terminated under subsection (a) for a violation of this chapter by a subcontractor may not be considered a breach of

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contract by the contractor or the subcontractor.

(c) A subcontractor may file an action with a circuit or superior court having jurisdiction in the county to challenge a termination of a contract under subsection (a) not later than twenty (20) days after the contractor terminates the contract with the subcontractor.

SECTION 7. IC 34-30-2-87.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE OCTOBER 1, 2009]: **Sec. 87.3. IC 22-5-1.5-23 (Concerning certain employers that employ unauthorized aliens).**

SECTION 8. IC 35-44-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 5. Offenses Relating to Illegal Aliens**

**Sec. 1. This chapter does not apply to the following:**

- (1) A church or religious organization.
- (2) The provision of assistance for health care items and services that are necessary for the treatment of an emergency medical condition of an individual.
- (3) A health care provider (as defined in IC 16-18-2-163(a)) that is providing health care services.
- (4) An attorney or other person that is providing legal services.
- (5) A person who:
  - (A) is a spouse of an alien or who stands in relation of parent or child to an alien; and
  - (B) would otherwise commit an offense under this chapter with respect to the alien.

**Sec. 2. As used in this chapter, "alien" has the meaning set forth in 8 U.S.C. 1101(a).**

**Sec. 3. As used in this chapter, "federal immigration agency" means an agency of the federal government responsible for the determination of the immigration status of aliens present in the United States.**

**Sec. 4. Except as provided in section 6 of this chapter, a person who:**

- (1) transports; or
- (2) moves;

an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law commits transporting an illegal alien, a Class A

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**misdemeanor.**

**Sec. 5. Except as provided in section 6 of this chapter, a person who:**

- (1) conceals;**
- (2) harbors; or**
- (3) shields from detection;**

**an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law commits harboring an illegal alien, a Class A misdemeanor.**

**Sec. 6. (a) Except as provided under subsection (b), an offense under section 4 or 5 of this chapter is a Class D felony if the:**

- (1) person has a prior unrelated conviction under section 4 or 5 of this chapter; or**
- (2) offense involved more than five (5) aliens.**

**(b) The offense is a Class C felony if the person has a prior unrelated conviction under this section.**

**Sec. 7. A determination by a federal immigration agency that an alien has come to, entered, or remained in the United States in violation of law creates a rebuttable presumption that the alien is in the United States in violation of law.**

**SECTION 9. [EFFECTIVE OCTOBER 1, 2009] A prosecuting attorney may file an action against an employer under IC 22-5-1.5-14, as added by this act, only for a violation of IC 22-5-1.5-10, as added by this act, that occurs after September 30, 2009.**

**SECTION 10. [EFFECTIVE JULY 1, 2008] IC 35-44-5-4 and IC 35-44-5-5, both as added by this act, apply only to crimes committed after June 30, 2008.**

**SECTION 11. [EFFECTIVE JULY 1, 2008] (a) The attorney general may request funding to implement IC 22-5-1.5-11, as added by this act, in the next biennial budget submission.**

**(b) This SECTION expires July 1, 2012."**

(Reference is to EHB 1219 as printed February 22, 2008.)

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## SENATE MOTION

Madam President: I move that Engrossed House Bill 1219 be amended to read as follows:

Page 4, after line 11, begin a new paragraph and insert:

**"SECTION 2. [EFFECTIVE JULY 1, 2008] (a) As used in this SECTION, "commission" means the pension management oversight commission established by IC 2-5-12-1.**

**(b) The commission shall study:**

**(1) discrimination by employers, employment agencies, and labor organizations against persons who are at least forty (40) years of age; and**

**(2) which state agency should have jurisdiction over age discrimination proceedings.**

**(c) The commission shall make recommendations to the general assembly regarding the need for legislation concerning age discrimination and the appropriate state agency to have jurisdiction over age discrimination proceedings.**

**(d) The commission shall report the results of its study required under this section to the legislative council before November 1, 2008. The report must be in electronic format under IC 5-14-6.**

**(e) This SECTION expires November 1, 2008."**

(Reference is to EHB 1219 as printed February 22, 2008.)

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 SENATE MOTION

Madam President: I move that Engrossed House Bill 1219 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

**"SECTION 1. IC 6-8.1-8-8.7, AS ADDED BY P.L.226-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.7. (a) The department shall operate a data match system with each financial institution doing business in Indiana.**

**(b) Each financial institution doing business in Indiana shall provide information to the department on all individuals:**

**(1) who hold one (1) or more accounts with the financial institution; and**

**(2) upon whom a levy may be issued by the department or a**

**EH 1219—LS 6691/DI 102+**



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county treasurer.

(c) To provide the information required under subsection (b), a financial institution shall do one (1) of the following:

(1) Identify individuals by comparing records maintained by the financial institution with records provided by the department by:

(A) name; and

(B) either:

(i) Social Security number; or

(ii) tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) ~~available~~ **accessible** to the department or its agents for use only in tax judgment and levy administration.

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either:

(i) the Social Security number; or

(ii) tax identification number;

of individuals identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual against whom a levy may be issued by the department or a county treasurer, the department or its agents shall provide a notice of the match, in compliance with section 4 of this chapter, if action is to be initiated to levy or encumber the account.

(f) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the individual has an interest in any debts owed to the financial institution that existed before:

(A) the state's levy; and

(B) notification to the financial institution of the levy.

(g) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

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(h) All information provided by a financial institution under this section is confidential and is available only to the department or its agents for use only in levy collection activities.

(i) A financial institution providing information required under this section is not liable for:

- (1) disclosing the required information to the department or the child support bureau established by IC 31-25-3-1;
- (2) blocking or surrendering an individual's assets in response to a levy imposed under this section by:
  - (A) the department; or
  - (B) a person or an entity acting on behalf of the department; or
- (3) any other action taken in good faith to comply with this section.

**(j) A person or an entity that is acting on behalf of the department is not liable for any action taken in good faith to collect the state's levy under this section unless:**

- (1) the action is contrary to the department's direction to the person or entity; or**
- (2) for information provided under this section, the person or entity acts with:**
  - (A) deliberate ignorance of the truth or falsity of the information; or**
  - (B) reckless disregard for the truth or falsity of the information.**

~~(j)~~ **(k)** The department or its agents shall pay a financial institution performing the data match required by this section a reasonable fee, as determined by the department, of at least five dollars (\$5) for each levy issued to the financial institution.

~~(k)~~ **(l)** This section does not prevent the department or its agents from encumbering an obligor's account with a financial institution by any other remedy available under the law."

Page 4, after line 11, begin a new paragraph and insert:

"SECTION 3. IC 22-4-29-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The department shall operate a data match system with each financial institution doing business in Indiana.**

**(b) Each financial institution doing business in Indiana shall provide information to the department on all employers:**

- (1) that hold one (1) or more accounts with the financial institution; and**
- (2) that are subject to a warrant issued by the commissioner**

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for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs.

(c) To provide the information required under subsection (b), a financial institution shall do one (1) of the following:

(1) Identify employers by comparing records maintained by the financial institution with records provided by the department by:

(A) name; and

(B) either:

(i) Social Security number; or

(ii) federal tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) accessible to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include:

(A) the name;

(B) the address of record; and

(C) either:

(i) the Social Security number; or

(ii) the federal tax identification number;

of the employers identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an employer that holds an account with a financial institution and an employer that is subject to a warrant issued by the commissioner for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs, the department or its agents shall provide a notice of the match to the financial institution if action is to be initiated to issue a warrant to levy upon or encumber the account.

(f) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the employer has an interest in any debts owed to the financial institution that existed before:

(A) the department's warrant; and

(B) notification to the financial institution of the

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department's warrant.

(g) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(h) All information provided by a financial institution under this section is confidential and is available only to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

(i) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the department or the child support bureau established by IC 31-25-3-1;

(2) blocking or surrendering an individual's assets in response to a levy imposed under this section by:

(A) the department; or

(B) a person or an entity acting on behalf of the department; or

(3) any other action taken in good faith to comply with this section.

(j) A person or an entity that is acting on behalf of the department is not liable for any action taken under this section in good faith to collect unpaid final assessments described in subsection (b)(2) unless:

(1) the action is contrary to the department's direction to the person or entity; or

(2) for information provided under this section, the person or entity acts with:

(A) deliberate ignorance of the truth or falsity of the information; or

(B) reckless disregard for the truth or falsity of the information.

(k) The department or its agents shall pay a financial institution performing the data match required by this section a reasonable fee, as determined by the department, of at least five dollars (\$5) for each warrant issued to the financial institution.

(l) This section does not prevent the department or its agents from encumbering an employer's account with a financial institution by any other remedy available under the law.

SECTION 4. IC 22-4-31-6, AS AMENDED BY P.L.108-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If, after due notice, any employing unit

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defaults in the payment of any contributions or other money payments required by this article, the amount due may be collected by civil action in the name of the state of Indiana on the relation of the department. Such civil action is not to be considered as the exclusive method for collection of the contributions or money payments but is in addition to the method provided in IC 22-4-29-2 through ~~IC 22-4-29-12~~ **IC 22-4-29-14** and is to be brought only in such cases as the department may deem advisable in the interest of necessity and convenience.

(b) Unless the employing unit prevails in a civil action brought under this chapter, the court may award costs, including reasonable attorney's fees, incurred by the state in bringing the action.

SECTION 5. IC 31-25-4-31, AS AMENDED BY P.L.103-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) The bureau shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the bureau on all noncustodial parents who:

- (1) hold one (1) or more accounts with the financial institution; and
- (2) are delinquent.

(c) In order to provide the information required under subsection (b), a financial institution shall either:

- (1) identify noncustodial parents by comparing records maintained by the financial institution with records provided by the bureau by:

- (A) name; and
  - (B) either Social Security number or tax identification number;
- or

- (2) submit to the bureau a report, in a form satisfactory to the bureau, that includes the Social Security number or tax identification number of each individual maintaining an account at the financial institution. **The reports submitted under this subdivision must be accessible to:**

- (A) the department of state revenue established by IC 6-8.1-2-1 or its agents for use only in tax judgment and levy administration described in IC 6-8.1-8-8.7(b)(2); or
- (B) the department of workforce development established by IC 22-4.1-2-1 or its agents for use only in the collection of unpaid final assessments described in IC 22-4-29-14(b)(2).

(d) The information required under subsection (b) must:

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- (1) be provided on a quarterly basis; and
- (2) include the:
  - (A) name;
  - (B) address of record; and
  - (C) either the Social Security number or tax identification number;

of an individual identified under subsection (b).

(e) When the bureau has determined that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual whose name appears on the quarterly list prepared by the bureau under section 30 of this chapter, the bureau shall provide a notice of the match if action is to be initiated to block or encumber the account by establishing a lien for child support payment to the:

- (1) individual; and
- (2) financial institution holding the account.
- (f) The notice under section (e) must inform the individual that:
  - (1) the individual's account in a financial institution is subject to a child support lien; and
  - (2) the individual may file an appeal with the bureau within twenty (20) days after the date the notice was issued.

(g) The bureau shall hold a hearing under 470 IAC 1-4. The department's final action following a hearing held under this subsection is subject to judicial review as provided in 470 IAC 1-4.

(h) The state's lien on assets under this section is subordinate to any prior lien perfected by:

- (1) a financial institution; or
- (2) another legitimate lien holder.

(i) A lien issued under this section remains in effect until the earliest of:

- (1) one hundred twenty (120) days after issuance;
- (2) the date the asset on which the lien is issued is surrendered; or
- (3) the date the lien is released by an action of the bureau.

(j) This section does not preclude a financial institution from exercising its right to:

- (1) charge back or recoup a deposit to an account; or
- (2) set off from an account held by the financial institution in which the noncustodial parent has an interest in any debts owed to the financial institution that existed before:
  - (A) the state's lien; and
  - (B) notification to the financial institution of the child support delinquency.

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(k) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(l) All information provided by a financial institution under this section is confidential and is available only to the bureau or its agents for use only in child support enforcement activities.

(m) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the bureau, **the department of state revenue established by IC 6-8.1-2-1, or the department of workforce development established by IC 22-4.1-2-1;**

(2) blocking or surrendering any of an individual's assets in response to a lien imposed by:

(A) the bureau under this section; or

(B) a person or entity acting on behalf of the bureau; or

(3) any other action taken in good faith to comply with this section.

(n) The department shall pay a financial institution performing the data match required by this section a reasonable fee for providing the service that does not exceed the actual cost incurred by the financial institution.

(o) This section does not prevent the bureau or its agents from encumbering an obligor's account with a financial institution by any other remedy available for the enforcement of a child support order.

SECTION 6. IC 34-30-2-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.8. IC 6-8.1-8-8.7 (Concerning actions taken to collect tax judgments and levies).**

SECTION 7. IC 34-30-2-86.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 86.7. IC 22-4-29-14 (Concerning actions taken to collect unemployment insurance assessments).**

SECTION 8. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1219 as printed February 22, 2008.)

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